



General Assembly

January Session, 2011

Raised Bill No. 6300

LCO No. 2933

02933 _____ GL_

Referred to Committee on General Law

Introduced by:
(GL)

AN ACT CONCERNING FUNERAL SERVICE CONTRACTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 42-200 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2011*):

3 (a) For the purposes of this section and sections 42-201 to 42-206c, as
4 amended by this act, inclusive, "funeral service contract" means a
5 contract which requires the payment of money or the delivery of
6 securities or the partial, collateral or complete assignment of the
7 ownership of an existing life insurance policy or naming of a funeral
8 home as beneficiary of an existing life insurance policy in exchange for
9 the final disposition of a dead human body, including funeral, burial
10 or other services, or the furnishing of personal property or funeral
11 merchandise in connection with any such disposition, wherein the use
12 or delivery of such services, property or merchandise is not required
13 immediately, "beneficiary" means the person for whom the goods or
14 services purchased in a funeral service contract are to be provided, and
15 "purchaser" means the person who signs the funeral service contract.

16 (b) A funeral service contract shall be in writing and shall contain

17 the following:

18 (1) The name, address, telephone number and Social Security
19 number of the beneficiary and the purchaser, unless the purchaser
20 refuses to provide a Social Security number;

21 (2) The name, address, telephone number and license number of the
22 funeral director for the funeral service establishment providing the
23 goods or services;

24 (3) A list of the selected goods or services, if any;

25 (4) The amount of funds paid or to be paid by the purchaser for
26 such contract, the method of payment and a description of how such
27 funds will be invested and how such investments are limited to those
28 authorized pursuant to subsection (c) of section 42-202, as amended by
29 this act, or a description of any assignment of an existing life insurance
30 policy which is used to fund a funeral service contract;

31 (5) A description of any price guarantees by the funeral service
32 establishment or, if there are no such guarantees, a specific statement
33 that the contract contains no guarantees on the price of the goods or
34 services contained in the contract;

35 (6) The name and address of the escrow agent designated to hold
36 the prepaid funeral [services] service contract funds;

37 (7) A written representation, in clear and conspicuous type, that the
38 purchaser should receive a notice from the escrow agent
39 acknowledging receipt of the initial deposit not later than twenty-five
40 days after receipt of such deposit by a licensed funeral director;

41 (8) A description of any fees to be paid from the escrow account to
42 the escrow agent or any third party provider;

43 (9) A description of the ability of the purchaser or the beneficiary to
44 cancel a revocable funeral service contract and the effect of cancelling

45 such contract;

46 (10) For irrevocable contracts, a description of the ability of the
47 beneficiary to transfer such contract to another funeral home or to
48 reassign the ownership or to change the beneficiary for any life
49 insurance policy used to fund a funeral service contract to the funeral
50 home to which the funeral service contract has been transferred; and

51 (11) The signature of the purchaser or authorized representative and
52 the licensed funeral director of the funeral service establishment.

53 (c) A funeral service establishment shall maintain a copy of all
54 funeral service contracts entered into or assigned to such establishment
55 and a list of each escrow account established pursuant to such
56 contracts. Such list shall include the name and address of the escrow
57 agent, the amount of funds deposited with such agent and the name
58 and address of the purchaser of the funeral services contract. Such
59 contracts shall be maintained by the funeral service establishment for a
60 period of six years after the completion of the contracted services. Such
61 establishment shall disclose such information, upon request, to the
62 Commissioner of Public Health, the Commissioner of Consumer
63 Protection or the Attorney General.

64 (d) A funeral service establishment shall notify the purchaser of
65 each prepaid funeral contract with such establishment not later than
66 ten days after any transfer of more than a fifty per cent ownership
67 share of such establishment to another person or entity or of the
68 closure of such establishment.

69 Sec. 2. Section 42-202 of the general statutes is repealed and the
70 following is substituted in lieu thereof (*Effective October 1, 2011*):

71 (a) A licensed funeral service establishment shall deposit any money
72 or securities which such establishment receives pursuant to a funeral
73 service contract, and not later than fifteen days after its receipt of such
74 money or securities, in one or more escrow accounts or into an

75 insurance contract established in accordance with the provisions of this
76 section. Not later than ten days after the initial deposit of such money
77 or securities, the escrow agent shall notify the purchaser, in writing, of
78 the agent's receipt of such initial deposit and the amount of such initial
79 deposit. Such escrow agent shall notify the purchaser of any transfer of
80 such funds or securities, except when such transfer is to pay for
81 services as required by the funeral service contract. Such funds or
82 securities shall not be transferred to an insurance contract without a
83 description to the purchaser by the funeral director of any fees, costs or
84 commissions associated with such insurance contract and without
85 obtaining the written consent of the purchaser to such transfer.
86 Nothing in this section shall preclude a licensed funeral establishment
87 from accepting an absolute, partial or collateral assignment of an
88 existing life insurance policy as a funeral service contract, provided the
89 licensed funeral establishment is named as the assignee of the life
90 insurance policy. If an existing life insurance policy is assigned to a
91 licensed funeral service establishment, such life insurance policy shall
92 be exempt from the escrow account and notification requirements of
93 this section.

94 (b) Each escrow account established pursuant to this section shall be
95 administered and maintained by an escrow agent. The funeral service
96 establishment which deposits money or securities in such escrow
97 account shall appoint such agent who shall be one of the following: (1)
98 A national banking association; (2) a state bank and trust company; (3)
99 a federal or state chartered savings bank; (4) a federal or state
100 chartered savings and loan association; (5) a licensed insurance
101 company; or (6) a registered broker-dealer. No such institution shall be
102 appointed as an agent unless such institution is authorized by law to
103 act as an escrow agent.

104 (c) Assets held in escrow accounts established pursuant to this
105 section shall be invested in one or more of the following: (1) Deposit
106 accounts insured by the Federal Deposit Insurance Corporation; (2)
107 accounts insured against loss of principal by an agency or

108 instrumentality of the United States government; (3) bonds in which
109 savings banks in this state may, by law, invest; (4) bonds of the United
110 States or any agency thereof or of this state or any municipality of this
111 state; (5) insurance contracts with an insurance company licensed by
112 the state of Connecticut to offer such contracts and maintaining not
113 less than a B plus rating for financial security by A.M. Best at the time
114 the assets are invested in the insurance contract; or (6) any other
115 deposit account or security of a quality, safety and expense
116 comparable to those set forth in this subsection.

117 (d) All interest, dividends and other income earned on the amounts
118 deposited in an escrow account pursuant to this section shall be
119 retained in such escrow account and credited, less any taxes and
120 administration expenses, to the respective interests of those persons for
121 whose benefit the escrow account is maintained. Amounts in an
122 escrow account shall be removed from such account only as provided
123 in sections 42-200 to 42-206, inclusive, as amended by this act. Each
124 party to a funeral service contract shall receive an annual statement of
125 the amount credited to such party's escrow account. Such statement
126 shall include the name and address of the escrow agent.

127 (e) If a purchaser of funeral services, property or merchandise
128 defaults in making payments required under the terms of such
129 contract, or if the purchaser or the person responsible for making
130 funeral arrangements for a deceased beneficiary fails to have the
131 funeral service establishment provide services, the funeral service
132 establishment may retain any origination fee specified in the funeral
133 service contract and any costs actually and reasonably incurred by
134 such establishment, and which costs are provided for in the general
135 price list maintained by such establishment, in the performance of the
136 contract as liquidated damages, provided the sum of the amount
137 retained as an origination fee [and the amount retained to pay for costs
138 incurred by the funeral establishment in the performance of the
139 contract] shall not exceed an amount equal to five per cent of the
140 amount in the escrow account at the time the purchaser of funeral

141 services defaults in making such payments. The balance of any amount
142 remaining in the escrow account for a revocable funeral service
143 contract shall be paid to such purchaser upon request.

144 (f) A person, firm or corporation licensed in accordance with the
145 provisions of chapter 385 which enters into a funeral service contract
146 shall furnish the agent of an escrow account established in accordance
147 with the provisions of this section with the name of the purchaser of
148 such services, property or merchandise, the address and name of the
149 beneficiary of the funeral service contract and the amount contracted
150 for, together with a copy of the contract listing the services, personal
151 property or merchandise to be furnished by the funeral service
152 establishment. Nothing in this section shall prohibit the commingling
153 within an escrow account of the money or securities received under
154 more than one funeral service contract for the purpose of management
155 and investment of funds in such escrow account.

156 (g) A funeral service contract shall provide that, if the particular
157 merchandise provided for in the contract is not available at the time of
158 death, the funeral service establishment shall furnish merchandise
159 similar in style and at least equal in quality of material and
160 workmanship to the merchandise provided for in the contract.

161 Sec. 3. Section 42-204 of the general statutes is repealed and the
162 following is substituted in lieu thereof (*Effective October 1, 2011*):

163 The legal representative of the decedent or a person who has
164 entered into a funeral service contract with a funeral service
165 establishment, upon written notice to such establishment and to the
166 escrow agent and subject to the provisions of section 17b-91, may
167 cancel any revocable funeral service contract prior to the performance
168 by such establishment. In the event of such a cancellation, all money in
169 the escrow account paid by such person, together with all accrued
170 income, less costs actually and reasonably incurred by the funeral
171 service establishment in the performance of such contract, shall be
172 returned to such person. An irrevocable funeral service contract

173 established pursuant to the provisions of section 42-207, as amended
174 by this act, shall not be cancelled but may be transferred to another
175 licensed funeral establishment pursuant to the provisions of this
176 chapter.

177 Sec. 4. Section 42-207 of the general statutes is repealed and the
178 following is substituted in lieu thereof (*Effective October 1, 2011*):

179 An irrevocable funeral service contract may be entered into in which
180 the amount held in escrow or to be paid by a life insurance contract
181 may be disbursed only upon the death of the beneficiary, provided
182 that in the case of a funeral service contract which is funded with
183 money or securities placed in escrow, such a contract does not exceed
184 five thousand four hundred dollars and all interest accumulates to the
185 escrow account and is inaccessible to the beneficiary or purchaser of
186 such contract. The assignment of an existing life insurance contract to
187 fund an irrevocable funeral service contract with a cash value in excess
188 of five thousand four hundred dollars is permitted, provided if the
189 beneficiary of the irrevocable funeral service contract is a Medicaid
190 beneficiary at the time of their death, then any amount greater than
191 five thousand four hundred dollars paid by reason of the death of the
192 insured shall be remitted within thirty days of receipt by the funeral
193 home to the state Treasurer and, if the beneficiary of the funeral service
194 contract is not a Medicaid beneficiary at the time of their death, then
195 any amount greater than five thousand four hundred dollars paid by
196 reason of the death of the insured shall be remitted within thirty days
197 of receipt to the estate of the beneficiary of the funeral service contract.
198 Such irrevocable funeral service contracts may be transferred from one
199 funeral service establishment to another upon request of the
200 [beneficiary] purchaser or upon the request of the person in charge of
201 making funeral or burial arrangements for the beneficiary. The
202 purchase of an irrevocable funeral service contract shall not preclude
203 an individual from purchasing other funeral service contracts that are
204 revocable, provided any such revocable funeral service contract
205 purchased by a Medicaid beneficiary may be revoked only upon

206 written notice by the Medicaid beneficiary to the Commissioner of
207 Social Services.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	42-200
Sec. 2	<i>October 1, 2011</i>	42-202
Sec. 3	<i>October 1, 2011</i>	42-204
Sec. 4	<i>October 1, 2011</i>	42-207

Statement of Purpose:

To allow the funding of prearranged funeral service contracts through the assignment of life insurance policies.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]